

33456

SERVICE DATE - MARCH 28, 2003

SURFACE TRANSPORTATION BOARD

WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

STB DOCKET NO. AB-6 (Sub-No. 403X)

**The Burlington Northern and Santa Fe Railway Company - Abandonment Exemption - In
Sedgwick County, KS**

BACKGROUND

In this proceeding, the Burlington Northern and Santa Fe Railway Company (BNSF or applicant) filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 for BNSF to abandon a line of railroad in Sedgwick County, Kansas (KS). The rail line proposed for abandonment is located between Milepost 494.22 and 505.20 in and near Wichita, and between Milepost 515.23 and Milepost 509.30 between Wichita and Valley Center, Sedgwick County, KS. The total distance is 16.91 miles. A map depicting the rail line in relationship to the area served is appended to this report. If the notice becomes effective, BNSF would be able to salvage track, ties and other railroad appurtenances.

DESCRIPTION OF THE LINE

The rail line is located in Sedgwick County, KS. According to BNSF, there has been no originating or terminating rail traffic on the subject line for the past two years. BNSF has also stated that there is no overhead rail traffic on the line.

The rail line is in and near Wichita and Valley Center, KS, which have populations of approximately 344,000 and 4,900, respectively. Land use in the vicinity of the right-of-way (ROW) is largely rural and suburban. There are 34 public crossings and eight private crossings along the ROW.

The width of the ROW is typically 100 feet. The ROW was originally acquired from 1879 to 1887 by the St. Louis Wichita and Western Railway Company and the Kansas Midland Railway Company, both predecessors of the St. Louis-San Francisco Railway Company (SLSF). SLSF merged into the Burlington Northern Railroad Company (BN) in 1980. BN and the Atchison Topeka and Santa Fe Railway Company merged in 1995 to become BNSF.

According to BNSF, Bridge 509.3 and Bridge 509.4 are the only structures on the rail line that are 50 years of age or older. Both bridges were constructed in 1952.

ENVIRONMENTAL REVIEW

The applicant submitted environmental and historical reports that indicate that the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities. The applicant served these reports on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 CFR 1105.7(b)]. We have reviewed and investigated the record in this proceeding.

The U.S. Department of Agriculture, Natural Resources Conservation Service (formerly the Soil Conservation Service) has stated that the proposed abandonment should have no effect on prime farmland.

The U.S. Army Corps of Engineers - Kansas City District concluded that the proposed abandonment would not involve the discharge of dredged or fill material in waters of the United States, including wetlands. Therefore, a Department of the Army permit under Section 404 of the Clean Water Act (33 U.S.C. 1344) would not be required.

Upon review of the proposed abandonment, the U.S. Fish and Wildlife Service - Kansas Field Office (USFWS) determined that there are several Federally-listed threatened or endangered species that may occur in the vicinity of the Arkansas River, which is near the subject rail line. However, the USFWS concluded that the proposed abandonment should not adversely impact fish and wildlife resources including threatened and endangered species.

The Kansas Department of Wildlife and Parks (KDWP) concluded that the proposed abandonment should not impact crucial wildlife habitats, current state-listed threatened and endangered species, species in need of conservation, or KDWP-managed public recreation areas, as long as the abandonment activities are restricted to the rail line ROW. KDWP recommended reseeding any vegetation impacted by abandonment activities to native grasses and forbs; and implementing erosion control measures, as needed. Therefore, we recommend a condition to address these KDWP concerns.

The U.S. Department of Interior, Bureau Land Management - Moore Field Station (BLM) stated that there are no BLM-managed public lands in the vicinity of the proposed abandonment.

The Kansas Department of Health and Environment - Bureau of Water (KDHE) stated that if abandonment activities are expected to disturb one or more acres of soil surface, then the applicant must submit a Notice of Intent for a construction stormwater discharge under Section 402 of the Clean

Water Act. KDHE noted that it requires all removed railroad ties to be disposed of at a permitted Solid Waste Landfill unless the applicant can demonstrate that the ties would be reused within a reasonable time frame. Additionally, KDHE noted that a water pollution control plan should be prepared by the applicant to address any potential water quality problems. Therefore, we recommend a condition to address KDHE's concerns.

The applicant stated that there are no known hazardous waste sites or hazardous material spill sites on the subject ROW.

The Kansas Department of Agriculture - Division of Water Resources (KDA) noted that a state permit would be required if the proposed abandonment would involve construction of a dam, or in any way change or diminish the course, current or cross section of a stream or watercourse in the state. Therefore, we recommend a condition to address KDA's concern.

The City of Wichita Department of Public Works stated that the proposed abandonment should not impact the 100-year floodplain.

In response to the applicant's environmental report, the Wichita-Sedgwick Metropolitan Area Planning Department (MAPD) found that the proposed abandonment is consistent with the local land use plan. MAPD noted that a portion of the ROW is designated as part of a proposed "greenway" and interim trail use may be of interest.

Because traffic has not moved on the subject rail line for the past 2 years, the proposed abandonment would not be expected to impact the development, use and transportation of energy resources or recyclable commodities, or result in the diversion of rail traffic to truck traffic that could result in impacts to air quality or the local transportation network.

The Kansas State Historical Society (the State Historic Preservation Office or SHPO) has concluded that the proposed abandonment should not affect any property listed on the National Register of Historic Places or otherwise identified in its files as having historical significance. The MAPD historic preservation officer and the City of Wichita archeologist also identified no historic or archeological sites on or adjacent to subject ROW.

CONDITIONS

We recommend that the following environmental conditions be placed on any decision granting abandonment authority:

1. Once abandonment plans are finalized and prior to the commencement of abandonment

activities, the applicant shall consult with the Kansas Department of Health and Environment - Bureau of Water on the need to file a Notice of Intent for a stormwater discharge under Section 402 of the Clean Water Act; the disposal requirements for any removed railroad ties; and the need to prepare and submit a water pollution control plan. The results of this consultation shall be reported to the Board.

2. Once abandonment plans are finalized and prior to the commencement of abandonment activities, the applicant shall consult with the Kansas Department of Agriculture - Division of Water Resources on the need for a state permit for activities within a stream or watercourse. The results of this consultation shall be reported to the Board.
3. To address concerns raised by the Kansas Department of Wildlife and Parks, the applicant shall reseed any vegetation impacted by abandonment activities with native grasses and forbs, and implement erosion control measures, as needed.

CONCLUSIONS

Based on the information provided from all sources to date, we conclude that, as currently proposed, abandonment of the line would not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and, therefore, no change in operations), discontinuance of service without abandonment and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

If abandonment and salvage of the rail line does take place, the ROW may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 CFR 1152.28) must be filed with the Surface Transportation Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Surface Transportation Board, with a copy to the railroad, within 20 days of publication of the notice of exemption in the Federal Register. However, the Board will accept late-filed requests as long as it retains jurisdiction to do so. This request must comply with the Board's rules for use of ROWs as trails (49 CFR 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Services (OPS) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPS directly at 202-565-1592 or mail inquiries to the Surface Transportation Board, Office of Public Services, Washington, DC 20423.

ENVIRONMENTAL COMMENTS

If you wish to file comments regarding this environmental assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of David Navecky, who prepared this environmental assessment. **Please refer to STB Docket No. AB-6 (Sub-No. 403X) in all correspondence addressed to the Board. Questions regarding this environmental assessment should be referred to David Navecky at 202-565-1593 (naveckyd@stb.dot.gov).**

Date made available to the public: March 28, 2003.

Comment due date: **April 11, 2003.**

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams
Secretary

Attachment

ENVIRONMENTAL ASSESSMENT

The Burlington Northern and Santa Fe Railway Company - Abandonment Exemption - in Sedgewick County, KS

STH DOCKET NO. AB-6 (Sub-No. 403X) Decision ID 33456

